

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

INTERNATIONAL CONSUMER PRODUCTS OF NEW JERSEY, INC.,
Plaintiff,
v.
COMPLETE CONVENIENCE, LLC,
et al.,
Defendants.

CIVIL ACTION NO. 07-325 (MLC)

MEMORANDUM OPINION

THE PLAINTIFF bringing this action on January 19, 2007, against the defendants – Complete Convenience, LLC (“CCLLC”), Alliance CM Corp. (“ACM”), John Scott Glover, Tomco Engineering Co. Ltd. (“TEC”), Noble Brands Ltd. (“NBL”), Ohtwogo Investors, L.P. (“OILP”), and International Trade Group, Inc. (“ITG”) – inter alia, to recover damages for infringement of the patent of a certain product (“Product”) (dkt. entry no. 33, 2d. Am. Compl.); and the plaintiff alleging that (1) CCLLC has registered a certain mark that forms the basis for an internet domain name registered by ACM, (2) ACM is an alter ego of, and an investor in, CCLLC, (3) Glover controls both CCLLC and ACM, (4) “CCLLC was created . . . to be a conduit for [ACM] and Glover to funnel money, operate at a loss, utilize the equipment, facilities, utilities and personnel of [ACM], and/or to insulate the assets of [ACM] and Glover from a judgment of infringement”, (5) OILP is a member of both CCLLC and NBL, and indebted to ACM in the amount

of \$600,000, (6) TEC and NBL manufacture the Product for CCLLC, and (7) ITG imports the Product for CCLLC (id. at 2-5); and thus it appearing that the claims asserted against all of the defendants – as stated by the plaintiff in the second amended complaint – are hopelessly intertwined; and

CCLLC (1) petitioning for bankruptcy protection pursuant to Chapter 11 of the Bankruptcy Code on May 7, 2008, in the United States Bankruptcy Court for the Northern District of Texas (“Texas Bankruptcy Court”), (2) listing the plaintiff, ACM, and Glover as creditors, and (3) listing this action against it as pending, see N.D. Tex. Bankr. Ct. Pet. No. 08-42141, dkt. entry no. 8, List of Creditors Holding 20 Largest Unsecured Claims, & Stmt. of Fin. Affairs; and

IT APPEARING that the filing of a bankruptcy petition operates as a stay, applicable to all entities, of the continuation of a judicial proceeding against the debtor that was commenced before the bankruptcy petition was filed, see 11 U.S.C. § 362(a)(1); and it appearing that the plaintiff can – before the Texas Bankruptcy Court – (1) move for relief from the automatic stay, and (2) file proofs of claim, see 11 U.S.C. §§ 362(d), 501; and the Court further finding that this situation presents “unusual circumstances” requiring a stay of the entire action, based on the manner in which the plaintiff asserted its claims against all of the defendants, McCartney v. Integra Nat. Bank N.,

106 F.3d 506, 510 (3d Cir. 1997), see Roberts v. We Love Country, Inc., No. 04-5631, 2005 WL 2094843, at *2-*3 (E.D. Pa. Aug. 29, 2005) (staying entire action where one of several defendants sought bankruptcy protection, as claims against all defendants intertwined); and the Court – even in the absence of the bankruptcy petition – having the inherent power to control the docket, and having determined that the interests of judicial economy will be best served by staying this action in its entirety, see Landis v. N. Am. Co., 299 U.S. 248, 254 (1936), Rolo v. Gen. Dev. Corp., 949 F.2d 695, 702 (3d Cir. 1991); and thus the Court intending to (1) stay and administratively terminate this action, and (2) direct the parties to proceed before the Texas Bankruptcy Court; and for good cause appearing, the Court will issue an appropriate order.¹

s/ Mary L. Cooper
MARY L. COOPER
United States District Judge

Dated: May 22, 2008

¹ The Court, in issuing an order here, is not addressing the issues of personal jurisdiction and venue; the defendants may raise those issues if this action is reopened.